

United States District Court
DISTRICT OF KANSAS

UNITED STATES OF AMERICA

v.

ORDER OF DETENTION PENDING TRIAL

COLBY B. DETERS

Defendant

Case Number: 07-20053-01-KHV-JPO

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
an offense for which the maximum sentence is life imprisonment or death.
an offense for which a maximum term of imprisonment of ten years or more is prescribed in
a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f) (1)(A)-(C), or comparable state or local offenses.
(2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
(3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an)other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

- (1) There is probable cause to believe that the defendant has committed an offense
for which a maximum term of imprisonment of ten years or more is prescribed in
under 18 U.S.C. § 924(c).
(2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

- (1) There is a serious risk that the defendant will not appear.
(2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Blank lines for additional findings or notes.

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by (clear and convincing evidence) (a preponderance of the evidence) that

(See attached page)

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: June 12, 2007

s/ David J. Waxse

Signature of Judicial Officer

DAVID J. WAXSE, U.S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

Part II - Written Statement of Reasons for Detention

There are a series of factors I have to consider to determine whether you should be released or detained.

The first factor is the nature and circumstances of the offense charged, including whether it is a crime of violence. Possession of firearms has been deemed to be a crime of violence, so that is a problem for you.

The next factor is the weight of the evidence against the person. You have a Grand Jury Indictment which means there has been a probable cause determination, so that is a negative.

The next factor is your character and physical and mental condition. Obviously the report indicates and your father has testified that you have mental health issues that need to be dealt with.

Family ties is clearly a positive factor.

Employment is a negative factor because you do not currently have any employment.

The next factor is financial resources. There is no indication that you currently have sums that would enable you to flee.

The next factor is length of residence in the community. When talking about the District of Kansas, you have been here a long time. You have not been in any one community a long time, so that is a neutral.

The next factor is community ties. Again, you have ties to the district but not to any one community.

The next factor is past conduct, including history relating to drug or alcohol abuse, criminal history, and record concerning appearances at court proceedings. You had four contacts with law enforcement as a juvenile and nine contacts in just two years since you have become an adult.

There is the one failure to appear that your father explained was maybe not your fault.

The next factor is whether at the time of the current offense you were on probation, parole or other release. Since we have a combination of three separate incidents here, part of the time you obviously were on release, so that is a problem.

The final factor is the nature and seriousness of the danger posed to any person of the community if you were released. On several occasions you had several firearms, and you also have the issue of distributing drugs. I understand why there may be conditions but I do not have confidence that you will follow conditions based on this record and your prior behavior. I am going to order you to remain detained pending further hearing.